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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/921,199  | 08/01/2001  | Klaus Hofrichter     | 80398.P455          | 6066             |
| 7590  | 12/13/2007  |                      | EXAMINER            |                  |
| Florin Corie<br>BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP<br>Seventh Floor<br>12400 Wilshire Boulevard<br>Los Angeles, CA 90025-1026 |             |                      | CASLER, TRACI       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3629                |                  |
|   |             |                      | MAIL DATE           | DELIVERY MODE    |
|   |             |                      | 12/13/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                             |                     |
|------------------------------|-----------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>      | <b>Applicant(s)</b> |
|                              | 09/921,199                  | HOFRICHTER ET AL.   |
|                              | Examiner<br>Traci L. Casler | Art Unit<br>3629    |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 September 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4, 7-11, 14-21, 24-31, 33, 36-40 and 43-50 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4, 7-11, 14-21, 24-29, 30-31, 33, 36-40, 43-50 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This action is in response to papers filed on September 13, 2007.

Claims 1, 9, 19, 30, 38 and 48 have been amended.

Claims 1-4, 7-11, 14-21, 24-29, 30-31, 33, 36-40, 43-50 are pending

Claims 1-4, 7-11, 14-21, 24-29, 30-31, 33, 36-40, 43-50 are rejected.

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 12 and 13 been renumbered claim 12 is missing examiner is unable to determine if applicant has previously cancelled claim 12 or if it was deleted in error.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on September 13, 2007 has been entered.

***Claim Rejections - 35 USC § 102***

3. Claims 1-4, 7-11, 14-21, 24-29, 30-31, 33, 36-40, 43-50 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication 20030174861 Levy et al, Connected Audio and other Media objects. Hereinafter referred to as Levy.

4. As to claims 1, 9, 19, 30, 38 and 48-49 Levy Teaches transmitting a request to download data; receiving identification information and data downloaded from one of a plurality of content providers storing said data, said identification information identifying said one content provider and obtained by said one content provider from an original content provider of said data (**Levy teaches user requested information and transmitting various types of identification of provider(distributor)**)

transmitting, to said original content provider, said identification information for said one content provider, which downloaded said data, along with payment for the download of said data transmitting, to said original content provider, a request for a distribution tool identifying said client as an additional content provider that distributes said data to other clients;(**The OID contains the retailer or the distributors and crediting royalty fees id Pg. 4 ¶ 34**)

receiving said distribution tool; and applying said distribution tool to said data to identify said client as an additional content provider prior to distributing said data to another client ;(**the licensing servers allows owners to market their music PG. 4 ¶ 30**)

5. As to claims 2-4, 7 10-11, 14-15, 24-25, 31, 3, 36 and 43-44 Levy teaches the distribution tool as being an embedded watermark(Pg 1 12; Pg. 3 ¶ 30).
6. As to claims 8, 16, 26-27, 37, 45-47 and 55 Levy teaches transmitting payment to download data and paying distributor royalties(Pg. 4 ¶ 34).

***Response to Arguments***

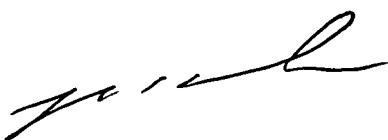
7. Applicant's arguments with respect to claims 1-4, 7-11, 14-21, 24-29, 30-31, 33, 36-40, 43- have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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